BEST COPY
AVAILABLE

MONTANA LEGISLATIVE HISTORY

Chapter 143 19 83

Bill H _____ S 103 Original bill & history X C

H. Committee on Bus + Ind.			S. Committee on Bus. Ind.		
Hearing Date(s)	3/1	X C	Hearing Date(s)	1/21	X C
		C		1/31	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ___ Yes X No

Committee _____ Report _____

CONTENTS

Chap. Num.	Senate Bill	House Bill	Sponsor	Title
135		244	Fabrega	An act limiting the application of the rule of 78ths method of computing interest and refunds on prepayment to loans and retail installment contracts made for a time period of not more than 61 months; providing for refund or credit on prepayment on loans or contracts exceeding 61 months; amending sections 31-1-242 and 32-5-301, MCA; and providing an immediate effective date and an applicability clause.....Page 245
136		255	Wallin	An act to require appraisal by a qualified appraiser of any state land to be purchased, exchanged, or sold; amending sections 77-1-202, 77-2-203, 77-2-211, and 77-2-323, MCA.....Page 248
137		262	Schye	An act to conform the definition of developmentally disabled for treatment purposes to that for purposes of community-based programs and residential facilities; amending section 53-20-102, MCA. .....Page 250
138		287	Harper	An act to provide that the reclamation bond required by the Opencut Mining Act may be greater than $1,000 per acre if the Department of State Lands determines, in writing, that the cost of restoring the disturbed land exceeds $1,000 per acre; amending section 82-4-433, MCA.....Page 251
139		305	Harp	An act to increase the amount of timber subject to the 10-day minimum advertisement period prior to sale by the Department of State Lands from 200,000 to 1 million board feet; amending section 77-5-201, MCA.....Page 252
140		338	Fabrega	An act to permit supplementary licensees under the Consumer Loan Act to make loans in any amount; amending sections 32-5-102, 32-5-103, 32-5-201, 32-5-301, 32-5-306, 32-5-402, and 32-5-501, MCA. .....Page 253
141		417	Metcalf	An act updating the list of controlled substances contained in state law to conform with controlled substances listed in the Code of Federal Regulation, 1308.11-15; amending sections 50-32-222, 50-32-224, 50-32-226, 50-32-229, and 50-32-232, MCA. .....Page 258
142		520	Roush	An act to clarify the designation process for certain coal board impact grants; amending section 90-6-207, MCA. .....Page 269
143	103		Ochsner	An act to clarify that a mutual insurer formed to provide insurance to members of an association or other organization may refuse to renew a contract of insurance if the insured withdraws from the association or organization; amending section 33-18-102, MCA...Page 270
144		18	Harrington	An act requiring a manufacturer to honor the express warranty on a new motor vehicle; providing for replacement of or refund for a new motor vehicle that does not conform to its warranty after a reasonable number of attempts have been made to conform the vehicle to its warranty; extending the warranty period because of delays caused by disasters; allowing other remedies; exempting a dealer from liability; and providing an applicability date.....Page 270
145		142	Harper	An act to change the provision of 50-percent reduction for the amount of pension received in calculating unemployment compensation to a proportionate amount where the claimant has contributed in part to the pension; amending section 39-51-2203, MCA..Page 272
146		276	Hansen	An act to amend section 13-2-102, MCA, to allow the appointment of deputy registrars in a county to be permissive rather than mandatory. .....Page 273
147		304	Mueller	An act clarifying student exclusion from membership in the Public Employees' Retirement System; amending section 19-3-403, MCA; and providing an immediate effective date. .....Page 274
148	4		Mazurek	An act requiring the appellant in a criminal appeal to order in writing a transcript of the trial court proceedings; amending section 46-20-302, MCA.....Page 276
149	146		D. Manning	An act to generally revise and clarify the laws relating to the water development program; amending sections 17-5-704, 85-1-604, 85-1-605, 85-1-613, 85-1-616, and 85-1-617, MCA; and providing an effective date. .....Page 277
150	153		Haffey	An act to allow a nonpublic elementary school to request that the Board of Public Education accredit the school; amending section 20-7-102, MCA.....Page 281

HEARING: 1/24/83
REPORT: 01/25/83, DO PASS, AS AMENDED
2ND READING: 01/27/83 AYES: 48; NAYS: 0
3RD READING: 01/29/83 AYES: 48; NAYS: 0

TRANSMITTED TO HOUSE: 1/29/83
REFERRED TO COMMITTEE ON NATURAL RESOURCES: 01/29/83
HEARING: 3/2/83
REPORT: 03/10/83, BE CONCURRED IN, AS AMENDED
2ND READING: 03/12/83, BE CONCURRED IN AYES: 89; NAYS: 0
3RD READING: 03/14/83, BE CONCURRED IN AYES: 99; NAYS: 0

RETURNED TO SENATE WITH AMENDMENTS: 3/15/83
2ND READING: 03/16/83 AYES: 48; NAYS: 0
3RD READING: 03/17/83 AYES: 47; NAYS: 0

TRANSMITTED TO GOVERNOR: 03/24/83
SIGNED: 03/28/83, CHAPTER 239

SB 102 -- OCHSNER, MC CALLUM, E. SMITH, ET AL. -- PROVIDING THAT A TRAVEL PERMIT LIVESTOCK OWNED BY A RODEO PRODUCER IS EFFECTIVE FOR A CALENDAR YEAR ....
BY REQUEST OF: THE DEPARTMENT OF LIVESTOCK

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/11/83
HEARING: 1/17/83
REPORT: 01/17/83, DO PASS
2ND READING: 01/19/83 AYES: 48; NAYS: 0
3RD READING: 01/21/83 AYES: 43; NAYS: 0

TRANSMITTED TO HOUSE: 1/21/83
REFERRED TO COMMITTEE ON AGRICULTURE, LIVESTOCK, & IRRIGATION: 01/22/83
HEARING: 1/28/83
REPORT: 1/31/83, DO PASS CONSENT CALENDAR
3RD READING: 02/02/83, BE CONCURRED IN AYES: 99; NAYS: 0

RETURNED TO SENATE: 2/2/83

TRANSMITTED TO GOVERNOR: 02/07/83
SIGNED: 02/09/83, CHAPTER 17

SB 103 -- OCHSNER, LEE, BLAYLOCK, ET AL. -- TO CLARIFY THAT A MUTUAL INSURER TO PROVIDE INSURANCE TO MEMBERS OF AN ASSOCIATION OR OTHER ORGANIZATION MAY REFUS RENEW A CONTRACT OF INSURANCE IF THE INSURED WITHDRAWS FROM THE ASSOCIATIO ORGANIZATION ....

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/11/83
HEARING: 1/21/83
REPORT: 02/01/83, DO PASS
2ND READING: 02/03/83 AYES: 48; NAYS: 2
3RD READING: 02/05/83 AYES: 42; NAYS: 4

TRANSMITTED TO HOUSE: 2/3/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 02/07/83
HEARING: 3/1/83
REPORT: 03/02/83, BE NOT CONCURRED IN

2ND READING: 03/03/83, BE CONCURRED IN AYES: 53; NAYS: 41
3RD READING: 03/04/83, BE NOT CONCURRED IN AYES: 48; NAYS: 48

RETURNED TO SENATE: 03/05/83

RETURNED TO HOUSE FOR FURTHER CONSIDERATION 3/7/83
3RD READING: 03/07/83, BE CONCURRED IN AYES: 57; NAYS: 41

RETURNED TO SENATE: 3/7/83

TRANSMITTED TO GOVERNOR: 03/14/83
SIGNED: 03/19/83, CHAPTER 143

104 -- KEATING, GOODOVER, C. SMITH, ET AL. -- TO ESTABLISH A SELF-GOVERNING BOARD FOR REGULATION AND LICENSURE OF EMPLOYMENT AGENCIES ....

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON STATE ADMINISTRATION: 01/11/83
HEARING: 1/18/83
REPORT: 1/31/83, DO NOT PASS. REPORT ADOPTED.
BILL KILLED.

105 -- KEATING, C. SMITH -- TO BASE THE FEE CHARGED BY AN EMPLOYMENT AGENCY UPON AN APPLICANT'S PROJECTED INCOME ....

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON BUSINESS & INDUSTRY: 01/11/83
HEARING: 1/28/83
REPORT: 02/01/83, DO NOT PASS. REPORT ADOPTED.
BILL KILLED.

106 -- BLAYLOCK -- TO INCREASE THE PENALTIES FOR OVERWEIGHT VEHICLES ....
BY REQUEST OF: THE DEPARTMENT OF HIGHWAYS

INTRODUCED: 01/11/83
REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION: 01/11/83
HEARING: 1/18/83
REPORT: 01/26/83, DO PASS, AS AMENDED
2ND READING: 01/28/83 AYES: 46; NAYS: 0
3RD READING: 01/31/83 AYES: 42; NAYS: 7

TRANSMITTED TO HOUSE: 1/31/83
REFERRED TO COMMITTEE ON HIGHWAYS & TRANSPORTATION: 02/01/83
HEARING: 3/1/83
REPORT: 03/02/83, BE CONCURRED IN
REFERRED TO COMMITTEE ON APPROPRIATIONS: 03/03/83
HEARING: 4/7/83
REPORT: 04/07/83, BE CONCURRED IN
2ND READING: 04/08/83, BE CONCURRED IN AYES: 89; NAYS: 7
3RD READING: 04/11/83, BE CONCURRED IN AYES: 70; NAYS: 10

RETURNED TO SENATE: 4/11/83

TRANSMITTED TO GOVERNOR: 04/15/83
SIGNED: 04/20/83, CHAPTER 601

107 -- BLAYLOCK, SCHYE, MC BRIDE, ET AL. -- TO PROVIDE FOR BASIC LEVELS OF

SENATE BILL NO. 103

INTRODUCED BY OCHSNER, LEE, BLAYLOCK, BOYLAN, SCHULTZ, DEVLIN, ZABROCKI

IN THE SENATE

January 11, 1983	Introduced and referred to Committee on Business and Industry.
February 1, 1983	Committee recommend bill do pass. Report adopted.
February 2, 1983	Bill printed and placed on members' desks.
February 3, 1983	Second reading, do pass.
February 4, 1983	Correctly engrossed.
February 5, 1983	Third reading, passed. Ayes, 42; Noes, 4. Transmitted to House.

IN THE HOUSE

February 7, 1983	Introduced and referred to Committee on Business and Industry.
March 2, 1983	Committee recommend bill be not concurred in. Report adopted.
	Objection to adverse committee report. Bill placed on second reading.
March 3, 1983	Second reading, concurred in.
March 4, 1983	Third reading, not concurred in. Ayes, 48; Noes, 48.
March 7, 1983	On motion, request of House granted for return of S.B. No. 103 for further consideration.

March 7, 1983

On motion, bill placed on third reading for consideration this day.

Third reading, concurred in.

IN THE SENATE

March 8, 1983

Returned to Senate. Sent to enrolling.

Reported correctly enrolled.

Senate BILL NO. 103

INTRODUCED BY Schmuer (Lee Blaylock Boyle Doherty Devlin Zabrocki)

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT A MUTUAL INSURER FORMED TO PROVIDE INSURANCE TO MEMBERS OF AN ASSOCIATION OR OTHER ORGANIZATION MAY REFUSE TO RENEW A CONTRACT OF INSURANCE IF THE INSURED WITHDRAWS FROM THE ASSOCIATION OR ORGANIZATION; AMENDING SECTION 33-18-102, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 33-18-102, MCA, is amended to read:

"33-18-102. Unfair methods or deceptive practices prohibited -- refusal to renew. (1) No person shall engage in this state in any trade practice which is defined in this chapter as or determined pursuant to this chapter to be an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

(2) Nothing in this chapter shall be construed to prevent an insurer owned or controlled by an association or organization, including a mutual insurer formed to provide insurance to the members of an association or organization, from refusing to renew a casualty or liability policy for nonpayment of dues to the association or organization if payment of dues is a condition for obtaining or continuing such insurance."

-End-

LC 0802/01

48th LEGISLATIVE SESSION

COMMITTEE ON BUSINESS AND INDUSTRY

SENATE BILL NO.	ENTERED COMM.	DATE CONSIDERED	OUT OF COMM.	DO PASS DATE	DO NOT PASS DATE	DO PASS AS AMEND. DATE	BE CONCURRED IN DATE	BE CONC. IN AS AMENDED DATE	BE NOT CONCURRED IN DATE
SB 11	1-3-83	1-24-83	1-24-83			1-24-83			
SB 53	1-3-83	1-7-83	1-10-83	1-10-83					
SB 54	1-3-83	1-7-83	1-10-83		1-10-83				
Returned SB 54	1-10-83	1-19-83	1-19-83	T A B L E D					
SB 62	1-6-83	1-14-83 1-19-83	1-19-83	1-19-83					
Returned SB 62	1-21-83	1-28-83 1-31-83	1-31-83			1-31-83			
SB 75	1-6-83	1-14-83	1-14-83	1-14-83					
SB 84	1-10-83	1-26-83 2-11-83	2-11-83			2-11-83			
SB 103	1-12-83	1-21-83 1-31-83	1-31-83	1-31-83					
SB 105	1-12-83	1-28-83 1-31-83	1-31-83		1-31-83				
SB 107	1-12-83	1-26-83 2-3-83	2-3-83			2-3-83			
SB 117	1-12-83	1-24-83	1-24-83	1-24-83					
SB 120	1-12-83	2-9-83	2-9-83	2-9-83					
SB 125	1-12-83	1-19-83 1-24-83	1-24-83	1-24-83					
SB 128	1-14-83	1-21-83	1-21-83	1-21-83					
SB 144	1-14-83	2-7-83	2-7-83	2-7-83					

Use a separate sheet for Senate, House Bills, and Resolutions.

In closing, Senator Hazelbaker stated the elderly population in Montana is approximately 119,240 - 27.6% are over 75. They are more likely to be in need of the personal care services. They have had inquiries regarding this bill and whether this project is going to get started. They feel it is really important to people in need of personal care.

There being no further discussion, the hearing on Senate Bill 128 was closed.

CONSIDERATION OF SENATE BILL 151: Senator Jack Galt, sponsor of of this bill, stated this bill is at the request of the Revenue Oversight Committee. At the present time when the population of a community increases and they are eligible for an all beverage liquor license the applicant needs to submit a $20,000 application fee to the Department of Revenue. It sits at the Department until an applicant has been chosen. This bill would replace the fee with an irrevocable letter of credit.

PROPONENTS TO SENATE BILL 151: Howard Heffelfinger, Liquor Division Administrator, stated as has been noted in a corporate quota area, an applicant is required to pay a license fee of $20,000. When these licenses come up there tends to be a scrambel for these licenses. During the period of time that the licenses are tied up, that money is earning interest. However, under the law they are not required to pay interest back to the applicant. In Bozeman they had seven applicants who had to wait two years before they selected an applicant to receive the license. Most of these people have to borrow the money at prime interest rates as high as 21% and receive no interest on their money when the fee is repaid. This bill would provide an irrevocable letter of credit in lieu of the fee and he stated he fully supported the bill.

John Cadby, Montana Banker's Association, stated their legislative committee reviewed this bill and saw no problems with it.

There were no further proponents and no opponents.

After discussion and questions from the committee, the hearing on Senate Bill 151 was closed.

CONSIDERATION OF SENATE BILL 103: Senator Gary Lee, co-sponsor of this bill, stated last session they passed a piece of legislation for the Montana Farm Bureau that allows them to refuse to renew policies for nonpayment of dues. There is some new language in Senate Bill 103.

PROPONENTS TO SENATE BILL 103: Pat Underwood, Director of Montana Farm Bureau introduced the proponents with the Montana Farm Bureau.

Mack Quinn, President of Montana Farm Bureau, stated he supported the bill. His testimony is attached to the minutes. (Exhibit No. 1)

John Alke, Attorney, stated he was retained by the Montana Farm Bureau to help them with their problem. At that time they voluntarily came before the Insurance Commission and stated how they would be prohibited from implementing the program. He stated this is a mutual insurance company which does not have stockholders they only have policyholders. The insurance company is a corporation and the corporation is controlled by the directors. The articles require that the members join the farm bureau.

Terry Murphy, Montana Farm Bureau, spoke in favor of the bill. They too, as a volunteer organization, have built up an insurance service for the members which provides good insurance coverage for farm and ranch families at the lowest possible cost with the requirement that they become members. If they do not wish to continue to be a member then they feel they should be allowed not to renew their policies.

OPPONENTS TO SENATE BILL 103: Terry Meagher, Chief Examiner, Montana Insurance Department, stated he opposed the bill. His testimony is attached to the minutes. (Exhibit No. 2)

Norma Seiffert, Montana Insurance Department, stated many of the membership they have discussed this with did not go along with it. They have discussed it with the Wyoming Insurance Department and they are opposed to this also.

Jess Starnes, Chairman of the Board, Montana Insurance Guaranty Association stated he feels the same concerns as the insurance commission. He is opposed to the bill.

Senator Lee stated if the dues are not paid then the organization does not have to renew the policy. He stated this bill, last session, was signed into law and should have gone into affect.

During the discussion and questions by the Committee, Senator Christiaens noted that Mr. Quinn had stated that similar legislation was passed in Wyoming; however, Mrs. Seiffert stated that Wyoming is opposed to this type of legislation. Senator Lee asked Mr. Quinn and Mrs. Seiffert to get the committee some information on Wyoming's status of a similar law. If they have this law do they have any problems with it.

After further discussion, the hearing was closed on Senate Bill 103.

ACTION ON SENATE BILL 125: Staff Attorney, Greg Petesch, distributed proposed amendments to the committee on Senate Bill 125. He stated all this would do is give the Code Commissioner the authority to change the name of the Development Credit Corporation to conform to Senate Bill 125 in any new legislation. (Exhibit No. 3)

Senator Lee made the motion that we pass consideration of this bill until Monday, January 31, 1983, because of other bills being introduced in the House on this same subject and consider the amendment

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983 DATE 1-21-83

NAME	PRESENT	ABSENT	EXCUSED
PAUL F. BOYLAN	✓		
B. F. CHRIS CHRISTIAENS	✓		
HAROLD L. DOVER	✓		
DAVID FULLER	✓		
DELWYN GAGE	✓		
PAT M. GOODOVER	✓		
GARY P. LEE, VICE CHAIRMAN	✓		
PAT REGAN	✓		
PAT M. SEVERSON			✓
ALLEN C. KOLSTAD, CHAIRMAN	✓		

January 21, 1983
EXHIBIT NO. 1.

MR. CHAIRMAN, MEMBERS OF COMMITTEE AND GUESTS:

I APPRECIATE THE OPPORTUNITY TO TESTIFY ON SENATE BILL 103.

THE MONTANA FARM BUREAU WAS ORGANIZED IN 1919 AND CURRENTLY HAS 5393 MEMBER FAMILIES IN 39 ORGANIZED COUNTY FARM BUREAUS.

FARM BUREAU IS A FREE, INDEPENDENT, NONGOVERNMENTAL, VOLUNTARY ORGANIZATION OF FARM AND RANCH FAMILIES UNITED FOR THE PURPOSE OF ANALYZING THEIR PROBLEMS AND FORMULATING ACTION TO ACHIEVE EDUCATIONAL IMPROVEMENT, ECONOMIC OPPORTUNITY, AND SOCIAL ADVANCEMENT AND THEREBY TO PROMOTE THE NATIONAL WELL-BEING.

TO THAT END IN 1958 WE ENTERED INTO A JOINT VENTURE WITH THE WYOMING FARM BUREAU TO PROVIDE INSURANCE SERVICES TO FARM BUREAU MEMBERS IN MONTANA. THAT RELATIONSHIP HAS GROWN TO JOINT MANAGEMENT THROUGH THE ELECTION OF FARM BUREAU MEMBERS IN MONTANA AND WYOMING TO THE BOARD OF DIRECTORS OF MOUNTAIN WEST FARM BUREAU MUTUAL INSURANCE COMPANY.

IT HAS BEEN THE INTENTION OF FARM BUREAU AS EXPRESSED BY THE ADOPTION OF OUR POLICIES AND THE ELECTION OF OUR OFFICERS TO PROVIDE CERTAIN ECONOMIC SERVICES TO OUR MEMBERSHIP. WE ARE CURRENTLY INVOLVED IN PROGRAMS MARKETING TIRES, BATTERIES, TILLAGE TOOLS, LUBRICANTS, FILTERS AND FROZEN FRUIT AND VEGETABLES AND PRESCRIPTION AND NON-PRESCRIPTION DRUGS TO OUR MEMBERS ON A MEMBERS ONLY BASIS. WE MARKETED OUR CASUALTY AND LIABILITY INSURANCES ONLY TO OUR MEMBERS UNTIL ABOUT 1972 WHEN INTERPRETATION OF PREVIOUSLY ADOPTED STATUTES DISALLOWED OUR MEMBERSHIP REQUIREMENT. WE SUPPORT SB242 BECAUSE IT ALLOWS US TO RETURN TO THE STATUS WHICH WE PREVIOUSLY ENJOYED, A STATUS WHICH SERVES THE PURPOSES FOR WHICH WE ENTERED INTO THE INSURANCE BUSINESS, THAT OF PROVIDING AN ECONOMIC SERVICE TO OUR MEMBERS, AND A STATUS ENJOYED BY EVERY OTHER STATE FARM BUREAU. THE PASSAGE OF LEGISLATION SIMILAR TO THIS IN NEW YORK IN 1978 AND IN WYOMING IN 1979 LEFT MONTANA ALONE AS THE ONLY STATE IN WHICH FARM BUREAU HAS NOT BEEN ABLE TO REQUIRE A MEMBERSHIP AS A CONDITION OF PURCHASING OR RENEWING CASUALTY AND/OR LIABILITY INSURANCE.

WE HAVE NO INTEREST IN AND THIS BILL DOES NOT GRANT AUTHORITY TO CANCEL ANY IN FORCE INSURANCE. WHAT WE ARE ASKING IS THE RIGHT TO REFUSE RENEWAL, AFTER DUE NOTICE, FOR THOSE WHO DO NOT CHOOSE TO MAINTAIN A MEMBERSHIP.

OURS IS A FAMILY ORGANIZATION PROVIDING SERVICES WITHOUT DISCRIMINATION TO FAMILIES UNDER A FAMILY MEMBERSHIP. THE DUES PAID VOLUNTARILY BY THE FAMILY ENTITLE THEM TO THE VARIOUS SERVICES AND ACTIVITIES WHICH WE SPONSOR. A PORTION OF EACH MEMBERSHIP IS SENT TO THE AMERICAN FARM BUREAU, A PORTION IS KEPT IN THE STATE FARM BUREAU AND A PORTION IS RETAINED IN THE COUNTY FARM BUREAU, WHICH IS THE BASIC UNIT IN THE ORGANIZATION. THE COUNTY FARM BUREAUS OWN OR OPERATE THE COUNTY FARM BUREAU OFFICES WHICH BECOME THE CENTER OF FARM BUREAU ACTIVITY AT THE COMMUNITY OR COUNTY LEVEL. THESE OFFICES ALONG WITH ALL OTHER COUNTY FARM BUREAU ACTIVITIES ARE FUNDED IN SOME PART BY THE MEMBERSHIP DUES.

I THINK IT NOTEWORTHY THAT THE BY-LAWS OF MOUNTAIN WEST FARM BUREAU MUTUAL INSURANCE COMPANY CLEARLY INDICATE THE MEMBERS ONLY PHILOSOPHY. IN SUPPORTING SB 103, WE ARE ASKING FOR LEGISLATIVE AUTHORITY TO OPERATE AS WE DID FOR MANY YEARS UNDER OUR ARTICLES OF INCORPORATION AND BY-LAWS AND IN COMPLETE HARMONY WITH THE PURPOSE FOR WHICH WE ARE ORGANIZED.

SENATE BILL 103 HAS THE SUPPORT OF OUR MEMBERSHIP AS EXPRESSED IN POLICY ADOPTED IN CONVENTION IN BOZEMAN, ON NOVEMBER 17, 1982.

THANK YOU FOR YOUR CONSIDERATION. I WILL BE PLEASED TO TRY TO ANSWER ANY QUESTIONS.

[illegible] Insurance Dept.
January 21, 1983
EXHIBIT NO. 2

The Montana Insurance Department opposes the passage of S.B. 103 for several reasons.

Basically we believe this legislation is not in the best interests of the insurance buying public. First, we fear that the proposed legislation would have an adverse impact on the solvency of the companies affected. We anticipate there will be a number of cancellations because people who have been insured by a company may not wish to join an association or organization, which may hold views contrary to their own, simply to maintain insurance from the company. The department has projected figures estimating the financial loss to a domestic mutual company and a foreign mutual insurer assuming that in a given month 300 nonorganization members cancelled, or in the alternative, assuming 100 nonorganization members cancelled. The projected figures are attached as Exhibit A.

Second, we are also concerned about the records of those policy-holders who are cancelled as a result of not wishing to belong to an organization or association. Drivers are required to carry motor vehicle liability insurance. We are concerned that some people, particularly elderly people, may have difficulty in obtaining insurance if their coverage is cancelled because they refuse to belong to a particular organization or association. Because of the financial responsibility laws, (Title 61, Chapter 6), they would be put into a bad position if they were unable to

obtain coverage elsewhere. This is an inadequate reason to subject people to cancellation. Further, any cancellation would go on the policyholders record and may adversely affect their ability to obtain other coverage.

Third, the cost of the membership would not be subjected to departmental regulation. Although the Insurance Department does not regulate rates, provided they are reasonable, the insurance code does prohibit rates that are excessive or inadequate (33-16-201). Therefore, we do have the power to take action if a company chooses to escalate its rates in an unreasonable way. We are afraid that if companies were permitted to require membership as a condition of insurance, the organization could increase its membership fees in an unreasonable way and the policyholders would then be forced to choose between cancellation and paying the membership fee.

For these reasons, the Montana Insurance Department opposes SB 103.

Thank you.

Montana Insurance Dept. 1-20-81

Analysis of Possible Effect on Solvency of Mutual Insurers Created By S.B. 103

COMPANY A (Foreign Insurer)

	Assume 100 policies cancelled per month	Assume 300 policies cancelled per month
No. Policies/mo. to annualize	100 X 12 mos.	300 X 12 mos.
No. Policies/year	1,200	3,600
Assumed annual premium	X $ 400/year	X $ 400/year
Annual premium generated	$ 480,000	$ 1,440,000
LESS: Losses incurred + loss adjustment expenses @ 74.11% (company's own 3-yr. ave.)	(355,728)	(1,067,184)
Alternative Gross Profit Lost	$ 124,272 →	$ 372,816 →
Reported Net income was	$ 638,272	$ 638,272
LESS: Alternative Gross Profit Lost	(124,272) ←	(372,816) ←
Resultant Net Income Would Be	$ 514,000	$ 265,456

NOTE: Montana premiums earned were $5,260,232 or 37.41% of company total. The same % of L.A.E. would = $569,249 plus actual losses incurred reported for Montana = $3,117,796 or a total of $3,687,645 which produces a Montana loss & LAE ratio of 70.10% This would slightly increase the lost gross profit and further reduce the resultant net income (approximately $60,000 in the case of 3,600 policies cancelled per year).

Montana Insurance Dept. 1-20-23
Analysis of Possible Effect on Profitability of
Mutual Insurers Created By S.B. 103

COMPANY B (Domestic Insurer)

	Assume 100 policies cancelled per month	Assume 300 policies cancelled per month
No. policies/mo. to annualize	100 × 12 mos.	300 × 12 mos.
No. policies/year	1,200	3,600
Assumed annual premium	× $ 400	× $ 400
Annual premium generated	$ 480,000	$ 1,440,000
LESS: Losses incurred + loss adjustment expense @ 62.29% (Mont. Only)	(298,992)	(896,976)
Alternative Gross Profit Lost	$ 181,008 →	$ 543,024 →
Reported Net Income Was.	$ 145,909	$ 145,909
LESS: Alternative Gross Profit Lost	(181,008) ←	(543,024) ←
Resultent Net Loss Would Be	$ (35,099)	$ (397,115)

DATE _____

COMMITTEE ON BUSINESS & INDUSTRY

VISITORS' REGISTER

NAME	REPRESENTING	BILL #	Check One: Support	Check One: Oppose
Bill Brown	Farm Bureau	SB 103	✓	
Pat Underwood	Farm Bureau	SB 94	✓	
Mark Quinn	MT. Farm Bureau	SB 103	✓	
Ellen Feaver	Dept of Revenue	SB 151	✓	
Marie McAlear	MPA	SB 128	✓	
Anna Lee Erickson	State Auditor	SB 151	~~✓~~	✓
Gordon Bryan	"	"	~~✓~~	✓
Norma Seiffert	"	"		✓
Dawn Mitchell	"	"		✓
Lyle Olson	Board of Housing	SB 128	✓	
Doug Gray	" " "	SB 128	✓	
Keith Olsen	MT Wool Grs Assn	103		
ROGER MCGLENN	IND. INS. AGENTS of MT	103		✓
Jess Stanves	MT INS County Assoc	103		✓
Jerry Meagher	Mont Ins. Dept.	103		✓

(Please leave prepared statement with Secretary)

NAME: Jack Quinn DATE:

ADDRESS: Box 353

PHONE: 378-2337

REPRESENTING WHOM? Montana Farm Bureau

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? X AMEND? OPPOSE?

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Larry Murphy DATE: 1-21-83

ADDRESS: Great Falls

PHONE: 452-6406

REPRESENTING WHOM? Montana Farmers Union

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: John Alke DATE: 1/21

ADDRESS: 406 Fuller

PHONE: 447-3690

REPRESENTING WHOM? Farm Bureau

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? X AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Terry Meaghar DATE: 1-21-83

ADDRESS: 423 So. Fee St., Helena

PHONE: 442-0682

REPRESENTING WHOM? Mont. Ins. Dept.

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? X

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Norma Leffler DATE: 1-21-83

ADDRESS: 2017 Lowell Ave, Helena

PHONE: 442-7184

REPRESENTING WHOM? Montana Ins Dept

APPEARING ON WHICH PROPOSAL: _____

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jess Starnes DATE: 1-22-82

ADDRESS: 814 Gilbert

PHONE: 442-6030

REPRESENTING WHOM? Montana Ind. Guaranty Assoc

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? _____

COMMENTS: _____

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

NAME: Jayne Mitchel DATE: Jan 21 1983

ADDRESS: State Auditors Office Mitchell Bld Helena MT

PHONE: 449-2996

REPRESENTING WHOM? Montana Insurance Dept

APPEARING ON WHICH PROPOSAL: SB 103

DO YOU: SUPPORT? _____ AMEND? _____ OPPOSE? ✓

COMMENTS:

PLEASE LEAVE ANY PREPARED STATEMENTS WITH THE COMMITTEE SECRETARY.

He handed the Committee proposed amendments to Senate Bill 249. (Exhibit No. 3) As amended this bill would apply only to private parties not regulated lenders or retail sales. All that would be left in the bill is section 1 and on page 3, line 12, U. S. District would be changed to the 9th Federal Reserve District.

Senator Regan stated she did not know why they are raising it to 20%.

Senator Turnage stated he thinks this bill should be killed. It only applies now to section 1 and it has no application to regulated lenders or retail sales. The people that are going to be involved in section 1 will be those that are not going to be regulated by a governing institution. This is an individual on the street loaning to another individual on the street. He feels the interest rate is too high. He doesn't see any great requests coming from the citizens to pass this kind of law. There would be private lenders who would like it.

Senator Christiaens asked how was this affecting the private individual when we were looking at prime rate at 20%. Senator Turnage stated he had no statistics on that. Lending to banks is now around 8% and they have allowed them to use 12%. Senator Turnage stated he has seen where elderly widows thought they needed money. Usually the banks will discourage it because they want to mortgage their home. He knows there will be people who will lend that kind of money and take the mortgage on the widows home. This bill is just not necessary.

Senator Boylan made a motion that Senate Bill 249 Do Not Pass. Senator Gage seconded the motion. The Committee voted unanimously, by voice vote, with the exception of Senator Dover, who was not present at the time the vote was taken, that SENATE BILL 249 DO NOT PASS.

ACTION ON SENATE BILL 103: Senator Goodover made the motion that Senate Bill 103 Do Not Pass. Senator Fuller seconded the motion.

Senator Lee made a substitute motion that Senate Bill 103 Do Pass. Senator Boylan seconded the motion.

Senator Gage stated the membership fee is required only on the initial policy. It is not required on renewals.

Senator Lee stated if this requirement is just a one-time membership fee this bill would not affect them.

Senator Gage stated only in that they could change their policy.

Senator Fuller stated he opposed the bill. He attempted to get out of Montana Farmers Union and Montana Farm Bureau why they wanted a membership fee. If they are in the business of selling insurance they should sell insurance. He is not saying that they are acting in bad faith but feels this bill should not pass.

Senator Kolstad stated all the fraternal organizations and brotherhoods are doing the same thing.

Senator Regan stated as a teacher she belongs to MEA and carries insurance. It is a fringe benefit of belonging to that group.

Senator Severson stated whatever the organization it has a service to its members. He received a call from a gentleman complaining about the membership rates. He used to carry grange insurance. On the basis of this whole thing of organizations providing this to their members as a service, he thinks they have the right to say that they must belong to the organization.

Senator Gage stated he agrees with what Senator Severson is saying.

Senator Lee stated they were not out and soliciting policies from the general public and the Commissioner made it mandatory that they do and that is the reason for the bill. It should not be the policy of this Committee how to run their business. They have guidelines on the books right now.

Senator Severson asked Staff Attorney Petesch if we had passed a similar bill last session? Mr. Petesch stated subsection 2 is what was passed last time.

Senator Severson stated he feels it is clear that they can do that. In the end they will have to go to court.

The Committee voted 6-3, by Roll Call Vote, with the exception of Senator Dover, who was not present at the time the vote was taken, that SENATE BILL 103 DO PASS.

ACTION ON SENATE BILL 105: Greg Petesch, Staff Attorney, stated the employment agency fee computation would change from annual fee to a projected fee which the agencies thought they were getting last time.

Senator Christiaens made a motion that Senate Bill 105 Do Not Pass. Senator Regan seconded the motion. The Committee voted 7-2, by Roll Call Vote, with the exception of Senator Dover who was not present at the time the vote was taken, that SENATE BILL 105 DO NOT PASS.

ACTION ON SENATE BILL 107: Greg Petesch, Staff Attorney, gave the committee proposed amendments for Senate Bill 107 which were the same amendments handed out by Senator Blaylock at the hearing on January 26, 1983. He stated two other amendments which should be in the bill. These are page 3, line 7, he indicated the drafter had indicated he did not intend to strike "physician" so would insert "physician or" and on page 6, line 16, following 31, the drafter made a mistake in the date, strike "1984" and insert "1983".

Senator Regan made a motion that the proposed amendments be placed with the amendments which Senator Blaylock suggested and that these Be Adopted. Senator Fuller seconded the motion.

ROLL CALL

BUSINESS AND INDUSTRY COMMITTEE

48th LEGISLATIVE SESSION -- 1983 DATE 1-31-83

NAME	PRESENT	ABSENT	EXCUSED
PAUL F. BOYLAN	✓		
B. F. CHRIS CHRISTIAENS	✓		
HAROLD L. DOVER	✓		
DAVID FULLER	✓		
DELWYN GAGE	✓		
PAT M. GOODOVER	✓		
GARY P. LEE, VICE CHAIRMAN	✓		
PAT REGAN	✓		
PAT M. SEVERSON	✓		
ALLEN C. KOLSTAD, CHAIRMAN	✓		

STANDING COMMITTEE REPORT

January 31, 19 83

MR. President

We, your committee on BUSINESS AND INDUSTRY

having had under consideration SENATE Bill No. 103

Respectfully report as follows: That SENATE Bill No. 103

DO PASS

ALLEN C. KOLSTAD, Chairman.

STATE PUB. CO.
Helena, Mont.

ROLL CALL VOTE

SENATE COMMITTEE BUSINESS AND INDUSTRY

Date 1/31/83 Senate Bill No. 103 Time

NAME	YES	NO
PAUL F. BOYLAN	✓	
B. F. CHRIS CHRISTIAENS	✓	
HAROLD L. DOVER		
DAVID FULLER		✓
DELWYN GAGE		✓
PAT M. GOODOVER		✓
GARY P. LEE, VICE CHAIRMAN	✓	
PAT REGAN	✓	
PAT M. SEVERSON	✓	
ALLEN C. KOLSTAD, CHAIRMAN	✓	

Mimi Fancher
Secretary

ALLEN C. KOLSTAD
Chairman

Motion: Do Pass

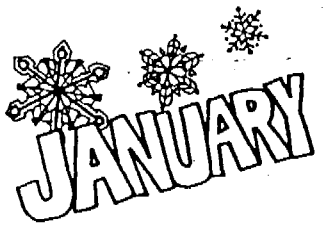
(Include enough information on motion -- put with yellow copy of committee report.

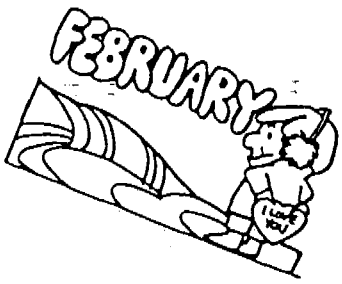
HOUSE BUSINESS & INDUSTRY COMMITTEE

REP. JERRY METCALF, CHAIRMAN
REP. BOB PAVLOVICH, VICE-CHAIRMAN

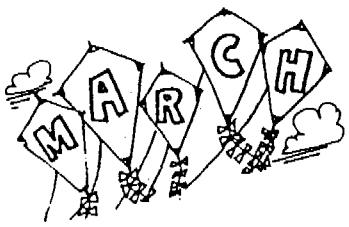
REP. BOB BACHINI
REP. BOB ELLERD
REP. ORVAL ELLISON
REP. JAY FABREGA
REP. STELLA JEAN HANSEN
REP. HAL HARPER
REP. MARJORIE HART
REP. RAMONA HOWE
REP. RAY JENSEN
REP. MIKE KADAS
REP. LES KITSELMAN
REP. RAY LYBECK
REP. GERALD NISBET
REP. GLENN SAUNDERS
REP. JIM SCHULTZ
REP. NORM WALLIN

Legislative Council - Paul Verdon
Secretary - Linda Palmer





1983



48th LEGISLATIVE SESSION

ROLL CALL

BUSINESS & INDUSTRY COMMITTEE

48 LEGISLATIVE SESSION, 1983

Name	Date 2/10	2/11	2/14	2/15	2/16	2/17	2/18	2/21		2/28	3/1	3/2	3/3	3/4
Rep. Jerry Metcalf	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Bob Pavlovich	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	E
Rep. Robert Bachini	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Bob Ellerd	✓	✓	✓	✓	✓	✓	✓	✓		●	✓	✓	✓	E
Rep. Orval Ellison	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Jay Fabrega	✓	✓	✓	E	✓	✓	✓	✓			✓	✓	E	✓
Rep. Harrison Fagg	✓	✓	E	✓	✓	✓	✓	✓			✓	E	✓	✓
Rep. Stella Jean Hansen	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Hal Harper	✓	✓	✓	E	✓	✓	✓	✓			E	✓	✓	✓
Rep. Marjorie Hart	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Ramona Howe	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. William Jensen	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Mike Kadas	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Les Kitselman	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Ray Lybeck	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	E
Rep. Gerald Nisbet	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Glenn Saunders	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Jim Schultz	✓	✓	✓	✓	✓	✓	✓	✓			✓	✓	✓	✓
Rep. Norm Wallin	✓	✓	✓	✓	✓	✓	✓	✓			✓	E	✓	✓

STATUS SHEET

BUSINESS & INDUSTRY COMMITTEE

48 Legislature

Bill No.	Subject Matter	Date In	Sponsor	Hearing Date	Committee Action	Date Ou
SB 53	ELIMINATING THE OFFICIAL SEAL ON LIQUOR PACKAGES PROHIBITING ANY OPEN CONTAINERS IN LIQ. STORES	1-17	GALT	2-14	BE CONCURRED	2-14
SB 250	REVISING THE LAWS RELATING TO THE BOARD OF HOUSING	3-7	GOODOVER	3-22	BE CONCURRED	3-22
SB 249	REVISING USURY LIMITS; ALLOWING DEPT. OF COMM. TO ADJUST RATES TO PREVAILING INTEREST RATES.	2-9	TOWE	3-3	BE CONCURRED RECONSIDERED 3-11 BE CONCURRED (A)	3-4 3-16
SB 133	TO ELIMINATE SPECIAL PENALTY FOR VIOLATIONS OF PLUMBING LAWS BY A FINE NOT TO EXCEED $500	2-5	LYNCH	3-4	BE CONCURRED	3-4
SB 62	LICENSING CRITERIA LIMITING OWNERSHIP OF MONTANA RETAIL ALCOHOLIC BEV. LICENSES	2-5	TURNAGE	3-2	BE CONCURRED (A)	3-2
SB 103	TO CLARIFY THAT A MUTUAL INSURER OF ASSOCIATIONS MAY REFUSE TO RENEW IF THE INSURED WITHDRAWS	2-6	OCHSNER	3-1	BE NOT CONCURRED	3-1

Form CS-32
1-79

HOUSE BUSINESS & INDUSTRY COMMITTEE

Chairman, Rep. Jerry Metcalf, called the Business & Industry Committee to order on March 1, 1983, at 9:00 a.m. in Room 420 of the Capitol Building, Helena, Montana. All members were present except Rep. Harper who was excused.

SENATE BILL 103

SEN. LEE, District 17, sponsor, opened by saying this bill was enacted last session but was not completely clarified so a few more words are being added to clear it up. This bill is basically for the Farm Bureau in particular and it does not say they may cancel an insurance policy if someone drops out of the Farm Bureau but it says if they drop out they do not have to renew their policy. The government said they could not do this and I am against government interference in areas like this.

PROPONENTS:

JOHN ALKE, Attorney, Montana Farm Bureau: After the 1981 legislation passed and a person disassociated themselves from the association, the insurance company denied renewal. The insurance commissioner said this was discrimination. This company was formed to provide insurance to it's members, and they were forced to do business with the general public. The commissioner said the legislature was the best place to try to solve our problem.

MACK QUINN, President of Montana Farm Bureau: So far as I can determine, Montana is the only state that cannot require membership as a condition for renewal of a casualty and liability insurance policy. I can't understand why the Department of Insurance in Montana will not allow us to do what can be done in all other states. It is not true that requiring membership would jeopardize the financial condition of the Mountain West Farm Bureau Insurance Co. Combining all of the non-member policy holders in the State of Montana, we find that over 50% of the total premium comes from our "country squire policy holders." This type of policy is issued only to the farmers and ranchers. These are the people that really benefit from the activities of Farm Bureau and I can state that very little of this business would ever be lost by requiring membership. (Exhibit #1)

BILL BROWN, Vice President, Montana Farm Bureau: We contacted every non-member policy holder three times before any adverse action was taken against them. There are approximately 1,500 policy holders who do not have membership in the Farm Bureau. (Exhibit #2)

CHRIS JOHANSEN, Montana Farmers Union: We urge favorable consideration of SB 103.

BOB STEPHEN, Montana Grain Growers Association: We do not require membership in the MGGA for a policy. We support SB 103.

SEN. OCHSNER: This law was made two years ago and the Insurance Department says it's no good. We think it is.

OPPONENTS:

NORMA SEIFFERT, Chief Deputy, Montana Insurance Department: Mrs. Driscoll, Chief Deputy in the last session, advised the Senate Business & Industry Committee that she did not think the bill would solve the problems which were intended. The Insurance Department is not ignoring the law - Mountain West Farm Bureau Insurance Company is a legal reserve mutual and falls within the purview of Title 33, Chapter 2 and is not subject to Title 33, Chapter 4, relating to Farm Mutuals. Wyoming absolutely refuses to permit failure to renew such memberships as grounds for cancellation or non-renewal of insurance policies. We are concerned with the solvency of the Mountain West Farm Bureau Insurance Company. The premiums will have to be increased to be actuarily sound. We have concerns for the public, especially older insureds who will have trouble buying another policy. (Exhibit #3)

TERRY MEAGHER, Chief Examiner, Montana Insurance Department: You cannot take one section of law and try to do something with it - you must take them all together. Under Chapter 3 it would not be possible in Montana to make a contingency requirement for the election of a board member of a mutual that they must be a member of some other organization. Self-serving as it may be or for whatever purpose. They must be elected from and by the membership. Under Chapter 18 where it is proposed that this legislation be codified, there are a number of references to fictitious groups. This bill doesn't exempt legal reserve mutuals from that provision. My main concern is the adverse affect this may have on solvency. It takes a certain amount of business to pay overhead. The number of policy holders has changed drastically over the past two years. There could be a minimum of 300 policy holders affected per month. If 100 policies per month were cancelled, the company's net income could be changed from $600,000 per year to $500,000. If 300 policies were cancelled each month, the net income would go from $600,000 to $200,000 per year. If a bill like this passes, unscrupulous companies could take advantage of it to increase the cost of insurance. All charges incurred are subject to premium taxes. The proponents of this bill disagree with that and we are going to have an administrative problem with that. There are between 25 and 50 legal reserves licensed in Montana and I believe the way this bill is written, they could also take advantage of things. (Exhibit #4)

SEN. LEE, in closing, said this is a prime example of our people's perception of state government being totally out of control. The law says "renewed." There is a difference between renewed and cancelled. These added words are not needed in this law but we have to do it to get the bureaucrats to look at it. I don't see where the department has the authority to do this. They should not decide these things for themselves. When we decide a policy, we should stand behind it. If they want to

strike the language, they should introduce a bill to strike it, not just interpret it themselves.

QUESTIONS:

REP. JENSEN: Mr. Brown, what benefits do members enjoy other than being able to carry this insurance? Mr. Brown: We offer pharmaceuticals at wholesale prices and a number of other things.
REP. SCHULTZ: Do you think people are going to drop off in droves? Mr. Brown: No, this is not intended to decrease membership. State Farm recently increased their premiums 11% and we foresee an increase of 4.2%. Rep. Schultz: What do you mean by non-members subsidizing members? Mr. Brown: We must maintain the county offices with dues. If we had more dues, we could open more offices.
REP. JENSEN: Mr. Meagher, does this mean that they are getting an increase in premiums without being taxed? Mr. Meagher: I don't object to that and the amount of insurance would not change but it would cost them more money. Our position is that this additional fee arises out of the insurance contract and it would be taxable unless it's exempt.
REP. ELLERD: Mr. Meagher, do you have the right to do that by law or by regulation? Mr. Meagher: It's a responsibility to the people of this state.
REP. KITSELMAN: Mr. Quinn, you refer to a letter from the management of Mountain West...you are on that board. Do you serve in a supervisory position over the man who wrote the letter? Mr. Quinn: Yes.
REP. KADAS: How would other companies be affected by this? Mr. Meagher: It's hard to say. They may not do anything. There are at least 50 mutuals in the state. They could increase their premiums or charge membership fees and we would have no control over it.
REP. BACHINI: If this passes, is the department going to take the same stand? Ms. Seiffert: We still see a conflict with various sections of the law. I don't feel there was an attempt to correct these sections.
REP. METCALF: The other 25-50 companies that could be affected by this - do they require membership before they provide coverage? Mr. Meagher: They don't require membership but they could if they choose. Rep. Kitselman: Farmer's Insurance Company requires a initial membership fee but not afterwards. Mr. Meagher: They require membership to the insurance company, not any other organization.

SENATE BILL 156

SEN. GOODOVER, District 22, sponsor, opened by saying this bill eliminates the requirement that each product liability insurer must include in his annual report the total number of judgments or verdicts for or against the insurer. Montana is the only state that uses this form and the form is never looked at.

STANDING COMMITTEE REPORT

MARCH 1 19 83

MR. SPEAKER:

We, your committee on BUSINESS & INDUSTRY

having had under consideration SENATE Bill No. 103

third ~~reading~~ copy (blue color)

A BILL FOR AN ACT ENTITLED: "AN ACT TO CLARIFY THAT A MUTUAL INSURER FORMED TO PROVIDE INSURANCE TO MEMBERS OF AN ASSOCIATION OR OTHER ORGANIZATION MAY REFUSE TO RENEW A CONTRACT OF INSURANCE IF THE INSURED WITHDRAWS FROM THE ASSOCIATION OR ORGANIZATION; AMENDING SECTION 33-18-102, MCA."

SENATE 103

Respectfully report as follows: That Bill No.

BE NOT CONCURRED IN

~~DO PASS~~

JERRY METCALF Chairman.

STATE PUB. CO.
Helena, Mont.

ROLL CALL VOTE ------ BUSINESS & INDUSTRY COMMITTEE COMMITTEE

	3-1-83	3-1-83					
	Date: SB No: 103 CONCUR	Date: SB No: 103 REVERSE	Date: No:	Date: No:	Date No:	Date No:	Date: No:
PAVLOVICH, Bob	no	yes		WALLIN, Norm	no	yes	
BACHINI, Robert	yes	no		METCALF, Jerry	no	yes	
ELLERD, Bob	no	yes					
ELLISON, Orval	yes	no					
FABREGA, Jay	yes	no					
FAGG, Harrison	-	-					
HANSEN, Stella Jean	no	yes					
HARPER, Hal	-	-					
HART, Marjorie	no	yes					
HOWE, Romona	yes	no					
JENSEN, William	yes	no					
KADAS, Mike	yes	no					
KITSELMAN, Les	no	yes					
LYBECK, Ray	yes	no					
NISBET, Gerald	no	yes					
SAUNDERS, Glenn	no	yes					
SCHULTZ, Jim	yes	no					
	9-8						

CS-31

1-8

Exhibit #1

IN SUPPORT OF SB 103

MR CHAIRMAN AND MEMBERS OF THE COMMITTEE,

I AM MACK QUINN, OF BIG SANDY, PRESIDENT OF MONTANA FARM BUREAU. I SINCERELY APPRECIATE THE OPPORTUNITY TO PRESENT TESTIMONY, AND URGE YOU TO CONSIDER FAVORABLY SB 103.

IT IS IMPORTANT IN CONSIDERING SB 103 THAT YOU BE FAMILIAR WITH THE FARM BUREAU FAMILY AND OUR STRUCTURE. FARM BUREAU IS A VOLUNTARY ORGANIZATION OF FARM AND RANCH FAMILIES UNTITED TOGETHER TO DO THOSE THINGS WE CANNOT ACCOMPLISH AS INDIVIDUALS. WE HAVE A MEMBERSHIP IN MONTANA OF 5393 MEMBER FAMILIES, AND I SHOULD POINT OUT THAT NATIONALLY WE HAVE A MEMBERSHIP OF OVER THREE AND A QUARTER MILLION MEMBER FAMILIES.

FARM BUREAU IS A NON PROFIT ORGANIZATION. WE PROVIDE ECONOMIC SERVICES FOR THE BENEFIT OF OUR MEMBERS BY FORMING AFFLIATE PROFIT CORPORATIONS WHICH ARE CONTROLLED BY THE MEMBERSHIP. OUR BY-LAWS PROVIDE THAT THE DIRECTORS OF MONTANA FARM BUREAU ALSO SERVE ON THE BOARD OF DIRECTORS OF OUR INSURANCE AND OTHER AFFLIATE CORPORATIONS.

AS PRESIDENT OF THE MONTANA FARM BUREAU, I WEAR SEVERAL HATS. I HAVE SERVED 7 YEARS AS A DIRECTOR OF THE MOUNTAIN WEST FARM BUREAU MUTUAL INS. CO. OF LARAMIE, WY. AND AM SERVING MY 4TH YEAR AS VP OF THAT COMPANY. IT IS LICENSED AND WRITES INSURANCE IN MT., WY., AND AR. I'M SERVING MY 7TH YEAR AS DIRECTOR OF WESTERN FARM BUREAU LIFE INS. COMPANY BASED IN DENVER, CO. AND IT IS LICENSED AND WRITING INSURANCE IN 11 STATES. I'M ALSO A DIRECTOR OF WESTERN AG INSURANCE COMPANY OF PHOENIX, AR. WHICH IS LICENSED AND WRITING INSURANCE IN 4 STATES INCLUDING MT.

SOME BACKGROUND INFORMATION IN CONSIDERING SB 103. UP TO ABOUT1972 WE REQUIRED MEMBERSHIP IN MONTANA FARM BUREAU AS A CONDITION FOR CARRYING AN INSURANCE POLICY WITH MOUNTAIN WEST, BUT AT THAT TIME AN INTERPRETATION OF EXISTING STATUES PROHIBITED US FROM REQUIRING MEMBERSHIP IN MONTANA FARM BUREAU AS A CONDITION FOR RENEWAL OF THE POLICY. TO CORRECT THAT PROBLEM

WE SUPPORTED SB 242 WHICH WAS PASSED AND WAS SIGNED INTO LAW AT THE LAST SESSION; HOWEVER, WE WERE PROHIBITED BY THE STATE DEPARTMENT OF INSURANCE OF MONTANA FROM IMPLEMENTING THAT BILL EVEN THOUGH I FIRMLY BELIEVE THE INTENT OF THE LEGISLATURE WAS TO ALLOW US TO REQUIRE MEMBERSHIP AS A CONDITION FOR RENEWAL.

I MEET SEVERAL TIMES A YEAR WITH PRESIDENTS AND STAFF FROM ALL OF THE STATE FARM BUREAUS, AND I CAN TELL YOU THAT SO FAR AS I CAN DETERMINE FROM PERSONAL INVESTIGATION MONTANA IS THE ONLY STATE THAT CANNOT REQUIRE MEMBERSHIP AS A CONDITION FOR RENEWAL OF A CASUALTY AND LIABILITY INSURANCE POLICY. THE STATE FARM BUREAUS AND THEIR AFFLIATE INSURANCE COMPANIES WORK IN HARMONY IN THE OTHER STATES WITH NO PROBLEMS. I CAN'T UNDERSTAND WHY THE DEPARTMENT OF INSURANCE IN MONTANA WILL NOT ALLOW US TO DO WHAT CAN BE DONE IN ALL OTHER STATES.

I HAVE MY DUES NOTICE FROM MONTANA GRAIN GROWERS ASSOCIATION. IT STATES "INSURANCE MEMBERS MUST HAVE CURRENT MEMBERSHIP". I ASK, "HOW CAN MONTANA GRAIN GROWERS REQUIRE A MEMBERSHIP AS CONDITION OF CARRYING INSURANCE, AND MONTANA FARM BUREAU CANNOT?". IT IS ALSO MY UNDERSTANDING THAT OTHER ORGANIZATIONS HAVE THE SAME REQUIREMENTS AND HAVE NO PROBLEMS WITH THE DEPARTMENT.

I WOULD FURTHER POINT OUT THAT WE DO REQUIRE A MEMBERSHIP WITH THE INITIAL POLICY, THEREFORE THERE SHOULD BE NO PROBLEM FOR THE AGENT IN REQUIRING MEMBERSHIP FOR POLICY RENEWALS AS PROVIDED FOR IN SB 103.

YOU WILL HEAR THAT REQUIRING A MEMBERSHIP WOULD JEOPARDIZE THE FINANCIAL CONDITION OF THE MOUNTAIN WEST FARM BUREAU INS CO. THIS IS SIMPLY NOT TRUE. WE MAINLY WRITE INSURANCE IN MONTANA AND WYOMING. IN GENERAL WE HAVE FOUND THAT LOSSES IN ONE STATE WILL USUALLY BE OFF SET BY THE OTHER STATE. MOUNTAIN WEST IS A 30 MILLION DOLLAR COMPANY AND HAS ENJOYED A "BEST" RATING OF A PLUS AS LONG AS I HAVE BEEN ON THE BOARD. THIS IS THE TOP RATE AN INSURANCE COMPANY CAN ATTAIN.

WE SUFFERED A HEAVY UNDERWRITING LOSS IN MONTANA LAST YEAR DUE MAINLY TO THE TERRIBLE HAIL AND WIND STORMS THAT STRUCK THE STATE. YOU WILL RECALL THAT THEY WERE ESPECIALLY DEVASTATING IN THE HELENA AREA. DESPITE THESE LOSSES WE WERE ABLE TO PUT IN EXCESS OF HALF MILLION DOLLARS INTO SURPLUS... AN OUTSTANDING ACHIEVEMENT AND A TRIBUTE TO EXCELLENT MANAGEMENT OF A FINANICALLY POWERFUL COMPANY.

COMBINING ALL OF THE NON-MEMBER POLICY HOLDERS IN THE STATE OF MONTANA WE FIND THAT OVER 50% OF THE TOTAL PREMIUM COMES FROM OUR "COUNTRY SQUIRE POLICY HOLDERS". THIS TYPE OF POLICY IS ISSUED ONLY TO THE FARMERS AND RANCHERS. THE AVERAGE PREMIUM ON THESE POLICIES IS $1444. NOW CONSIDER ADDING OUR CURRENT DUES OF $35 AND YOU CAN SEE THAT THE INCREASED COST IS VERY SMALL TO THAT POLICY HOLDER ON A PER CENT BASIS. THESE ARE THE PEOPLE THAT REALLY BENEFIT FROM THE ACTIVITIES OF FARM BUREAU AND I CAN STATE THAT VERY LITTLE OF THIS BUSINESS WOULD EVER BE LOST TO THE COMPANY BY REQUIRING MEMBERSHIP AS A CONDITION FOR RENEWAL.

I HAVE A LETTER FROM THE MANAGEMENT OF MOUNTAIN WEST PLEDGING SUPPORT AND COOPERATION WITH THE MONTANA FARM BUREAU IN IMPLEMENTING THE PROVISIONS OF SB 103.

THE BY-LAWS OF MOUNTAIN WEST CLEARLY INDICATES THE "MEMBERS ONLY" PHILOSOPHY. FURTHER SB 103 HAS THE SUPPORT OF THE MONTANA FARM BUREAU MEMBERSHIP AS EXPRESSED IN POLICY ADOPTED IN CONVENTION IN BOZEMAN NOV. 17TH 1982.

COMMITTEE MEMBERS, I HAVE TRIED TO RESPECT YOUR TIME DEMANDS BY BEING AS BRIEF AS POSSIBLE. SB 103 IS VERY IMPORTANT TO MONTANA FARM BUREAU, AND I WOULD RESPECTFULLY ASK FOR YOUR SUPPORT OF THE BILL.

I THANK YOU FOR YOUR TIME AND CONSIDERATION.

OCTOBER 1ST BEGINS EACH NEW MEMBERSHIP YEAR

Montana Grain Growers Association

RETURN THIS CARD WITH YOUR PAYMENT

MAKE CHECKS PAYABLE TO:
Montana Grain Growers Association
P.O. Box 1165
Great Falls, Montana 59403

ACCOUNT NUMBER	AMOUNT PAID
05	

QUINN T M & DOROTHEA

BIG SANDY MT 59520

If name or address incorrect, please correct.

DUES SCHEDULE

- ☐ $50 Regular Membership (Producers only).
- ☐ $100 Sustaining Membership (Producers only) Wheat Scoop Honor Roll Listing.
- ☐ $50 Associate Membership (Agri Business only) Wheat Scoop Honor Roll Listing.
- ☐ $5 Annual Wheat Scoop Subscription.
- ☐ $5 Wheat Hearts Membership.

- Insurance members must have current membership
- Memberships expire October 1st each year.
- Each membership includes a subscription to the WHEAT SCOOP at a yearly cost of $5.00 and MGGA REPORT at a yearly cost of $3.00.
- MGGA dues are tax deductible.

Exhibit #2

MONTANA FARM BUREAU FEDERATION

502 SOUTH 19th Dial 587-3153 BOZEMAN, MONTANA 59715

March 1, 1983

The Honorable Jerry Metcalf, Chairman
Business and Industry Committee
Montana House of Representatives
State House
Helena, MT 59601

Dear Sir:

In support of SB 103 I would like to present the following information:

The Montana Farm Bureau is not the only organization faced with the problems which can be corrected by this bill. A search of the Articles of Incorporation and By-Laws of certain other insurance companies shows that they also were established to serve the needs of their members. An excerpt from the By-Laws of the Grange Insurance Association clearly indicating their "member only" philosophy is shown as attachment #1. The Montana Farmers Union, with four insurance companies doing business in the state clearly retains the right to sell to members only in Farmers Union Mutual Insurance Company in Article IV of their By-Laws (see attachment #2) and in National Farmers Union Automobile and Casualty Company (see attachment #3).

The Montana Farm Bureau was organized in 1919. It was not until 1958 that we chose to provide casualty and liability insurance to our members. The By-Laws of Mountain West Farm Bureau Mutual Insurance state in Article II, Section 2. "The insurance policies of this corporation shall be issued to Wyoming Farm Bureau Federation members and Montana Farm Bureau Federation members, or the duly elected Directors of either Federation, in trust for their respective Federation and to no other person or corporation, except units of Government, school districts, churches, community properties, insureds such as would be classed as protected class fire properties and protected commercial class business, and individuals at age sixty-five (65) provided they were a member at age sixty-four (64)." We operated under these provisions until 1972 when an Insurance Department interpretation of the anti-discrimination provisions of the code required us to sell to the public at large. Our support for SB 103 is to restore our previous authority to function within the philosophy in which our insurance companies were organized: To provide a service to Farm Bureau members.

In response to concerns that SB 103 might have an adverse impact on the industry, I called the Departments of Insurance in Wyoming and North Dakota with these results:

1. In Wyoming I spoke to Larry Elson, Assistant Commissioner. The substance of his response to my questions was that they do allow the right to require a membership as a condition of purchasing or renewing casualty or property insurance. They have had no problems with fictitious groups. (See attachment #4 for Wyoming bill.)

2. In North Dakota I spoke to Greg Morris, Assistant Attorney General who is assigned to represent the Department of Insurance. He said that they have no problems with the situation in North Dakota wherein associations like the Farm Bureau are allowed to require a membership as a condition of purchasing or renewing casualty and/or property insurance. Fictitious groups are not a problem. All groups which he has checked on have proven to be valid groups.

Relative to questions you might have as to the impact it might have on the agency force of our insurance company. In the Farm Bureau we are a very close family organization. The Board of Directors of Mountain West Farm Bureau Mutual Insurance Company are 7 Farm Bureau Members from Wyoming and 5 from Montana. They support this legislation because they know that a strong active Farm Bureau organization is highly visible to potential insurance customers and that the public relations impact is invaluable in aquiring new clients for the agent. They are responsible for the proper management of the companies and want an increasing volume of business with a strong agency force. They would not support any action which would be damaging to our potential for growth. Management of Mountain West Farm Bureau Mutual Insurance Company have indicated their support for this bill.

Sincerely,

Bill

William W. Brown
Exec. Vice President.

ARTICLES OF INCORPORATION

OF

GRANGE INSURANCE ASSOCIATION

ARTICLE III.

The object and purposes for which this corporation is formed are:

1. To engage generally in the insurance business as a fraternal mutual insurer upon the cash premium plan insuring only the risks of members in good standing of the Patrons of Husbandry, commonly called the Grange, a fraternal society which conducts its business and secures its membership on the lodge system, and have a ritualistic form of work and ceremony; and for the purpose of insuring risks of corporations, associations and firms owned by and affiliated with the said Patrons of Husbandry, and corporations and firms, a majority of whose directors, members or ownership of shares, are members in good standing of the said Patrons of Husbandry; and to accept reinsurance from insurers likewise affiliated with and composed of members of the said Patrons of Husbandry; provided, that in states, territories or district of the United States of America wherein law does not provide for the operation of fraternal mutual insurers as such, this association shall be, and be deemed to be, and shall operate as a mutual insurer doing business on the cash premium plan, subject, however, to the general restrictions as to scope of operations contained in those articles.

FARMERS UNION MUTUAL INSURANCE COMPANY

BY LAWS

ARTICLE IV. - INSURANCE

Section 1. General Provisions. The Board of Directors, or if so designated by the Board, the Secretary, shall determine the character of property that may be insured; the form of the application for insurance and the policy; the term of the policy; the initial policy fee or charge; the time for and rates and amounts of assessment which are to be levied; policy limits and exclusions; restrictions and limitations as to membership; the powers, duties and obligations of members; ....

NATIONAL FARMERS UNION AUTOMOBILE AND CASUALTY COMPANY

#3

ARTICLE II. - MANAGEMENT AND CONTROL

The affairs and management of the Company, including determination of eligibility for holding stock or for insurances, the acceptance of risks, action on claims and determination of premium rates and of the form of policies and other contracts incidental to the operation of the Company, shall be under the direction and control of the Board of Directors, which may delegate all or such part of such power and authority as it deems necessary or advisable to its Executive Officers.

ARTICLE IV

Insurances shall be written only for eligible applicants. Insureds shall pay adequate premiums, and all policies shall be participating.

EXHIBIT 5

SB 103

Testimony of Norma E. Seiffert, Chief Deputy Insurance Commissioner for the State of Montana in the House Business and Industry Committee on March 1, 1983.

As a practical matter the Montana Insurance Department has done a great deal of research on the feasibility of Senate Bill 103. We are charged with numerous responsibilities and paramount among our responsibilities is the duty of preserving the solvency of the insurance companies admitted to do business in our state. We also enforce fair treatment of the people who purchase insurance and enforce the entire Title 33, M.C.A. The history we have gathered dates back to 1975.

In the material distributed to you (see Exhibit I) please note Harry Maschera, the Chief Deputy at that time, wrote Mr. Paul McLaughlin, the Montana Sales Manager for the Mountain West Farm Bureau in Bozeman, wherein he addressed the conflict with section 40-3520, RCM, 1947 (now section 33-18-207, MCA). Briefly Mr. Maschera stated this section prohibits the writing of group automobile insurance, or the writing of a plan on any form other than as offered to a person not in such a group. He further stated **NOT BELONGING IS NOT A REASON FOR CANCELLATION**".

Ms. Rita M. Theisen, then Chief Counsel for the Montana Insurance Department, further addressed the issue in her letter dated July 14, 1978 to Mr. James Morrow, a Bozeman attorney and a copy of same is now attached as Exhibit II. She cites various sections of Title 40, R.C.M., 1947. We have made some notations on this letter as to the current number of these sections under Title 33, MCA.

This bill was introduced in the 1981 session and was opposed for the same reasons set forth in the preceding paragraphs. It was, however, enacted into law under the Farm Mutual Section of Title 33-4-510(2), MCA. Mrs. Driscoll, the Chief Deputy in 1981 advised members of the Senate B & I Committee on February 2, 1981 she did not feel the passage of the Bill would resolve the problem for which it was intended.

We bring up this point because at the Senate B & I Hearing on January 21, 1983, the insurance department was cited as ignoring a Legislative Enactment which was also signed by the Governor. This is **not** the case, the Mountain West Farm Bureau Insurance Company is a legal reserve mutual and falls within the purview of Title 33, Chapter 2. It is not subject to Title 33, Chapter 4, relating to Farm Mutuals.

Another bit of testimony in the Senate Hearing related to this non-renewal program being approved in Wyoming. Please review Exhibit III namely a letter from Commissioner J. T. Langdon of Wyoming and related Wyoming statutes. In paragraph 2, he states Wyoming absolutely refused to permit failure to renew such membership as grounds for cancellation or non-renewal of the insurance policy.

We are, as previously stated, concerned with the solvency of the Mountain West Farm Bureau Insurance Company, and therefore, telephoned them on two occasions for data. Exhibit IV, dated 1-13-83, denotes the percentage of insureds not certified by the Farm Bureau Federation.

Exhibit V, dated 2-18-83, gives some statistics, i.e. 3,900 policies in force for insureds who do not have a current Farm Bureau Federation membership. Of these policies, 351 are City Squire policies which cover homeowners and auto, and the average premium is $698.00 per year. It is questionable what they would do with a membership to the FBF. How would it serve them? The three remaining catagories are explained in the exhibit.

As you will note the average loss ratio in all lines is over 112.5%. This, in itself leaves no alternative. The premiums will have to be increased to be actuarily sound. This company already has rates which are higher than many of their competitors. As a rule of thumb a 59% loss ratio is the figure our department considers as the safety valve on loss ratios so we can assume an increase will be forthcoming under our file and use rating laws. The increases should be sizable and an additional membership fee would decrease even further, the competative status of the Mountain West Farm Bureau Insurance Company. The additional fee could be the deciding factor, by an insured, to look elsewhere for coverage. We are concerned that a landslide of

non-renewals on the part of the insureds, or that of the insurer, may occur and have a decided bearing on the cash flow of the insurer. It could lead to an insolvency.

In the event of an insolvency the Montana Property and Casualty Guaranty Association would have to weigh the unpaid liabilities for the company involved and access each company admitted to write these lines for their proportionate share of the deficiency. All insureds of other companies will have to bear the burden of the assessment which will be reflected in the over all rate charges. This means those of us in this room will share the cost.

Now, what happens to the insured? He has a non-renewal on his insurance record. When he applies elsewhere for mandatory auto insurance the new insurer will inquire as to why he was non-renewed and the usual pattern is to contact the previous carrier for the reason. The Mounain West Farm Bureau Insurance Company would, no doubt, receive a volume of such inquiries, hence additional expense. It is also required by statute that the insurer provide written notice to the insured 30 days in advance of their intent not to renew coverage. 33-23-214, MCA. More handling is involved in this for the insurer and the means of recovery will again be reflected in the rates.

The insured may be in the questionable years for obtaining automobile insurance and may not meet the underwriting guidelines of other companies. Where does he go?

The agency force would be harmed when their livelyhood is curtailed.

Many legal reserve mutual insurance companies are authorized to do business in Montana and should they choose to follow this type of action the result would be catastrophic.

It would seem the intent of Senate Bill 103 is self serving to the Farm Bureau Federation and is a vehicle for obtaining memberships regardless of the penalty to the insurance buyer or the insurer and the **Montana Insurance Department wishes to go on record as OPPOSING THIS BILL.**

Exhibit #4

STATE OF MONTANA

OFFICE OF

E. V. "SONNY" OMHOLT

STATE AUDITOR

COMMISSIONER OF INSURANCE
INVESTMENT COMMISSIONER
CENTRAL PAYROLL SYSTEM

HELENA, MONTANA 59601

May 16, 1975

Mountain West Farm Bureau Mutual Insurance Company
125 West Mendenhall
Bozeman, Montana 59715

Attn: Mr. Paul McLaughlin
Montana Sales Manager

This will reply to your letter of May 14, concerning cancellation of auto insurance as a result of not belonging to an organization.

Section 40-3520, R.C.M., 1947, prohibits writing group auto insurance, or the writing of a plan on any form other than as offered to a person not in such a group. Not belonging is not a reason for cancellation.

Health insurance a somewhat different situation. Our laws provide for the sale of franchise or group health insurance to an organization, therefore, belonging to an organization could be required for continuance of the policy.

We trust this has clarified our telephone conversation.

E. V. "SONNY" OMHOLT
State Auditor & Ex Officio
Commissioner of Insurance

By: Harry Maschera

Harry A. Maschera
Chief Deputy Insurance Commissioner

HAM:hr

THE INSURANCE AND INVESTMENT DEPARTMENTS WERE CREATED FOR THE PROTECTION OF THE CITIZENS OF MONTANA. USE THEM!

Exhibit 1

OUR TELEPHONE:
(406) 449-2040 - All Divisions
(406) 449-2996 - Ins. Dept.

STATE OF MONTANA

OFFICE OF
E. V. "SONNY" OMHOLT
STATE AUDITOR
COMMISSIONER OF INSURANCE
INVESTMENT COMMISSIONER
CENTRAL PAYROLL SYSTEM

HELENA, MONTANA 59601

July 14, 1978

Mr. James Morrow
P. O. Box 1168
Bozeman, MT 59715

Re: Mountain West Farm Bureau Mutual Insurance Company

Dear Mr. Morrow:

This letter is to confirm our telephone conversation of July 12, 1978 concerning the above-captioned Company. Since that time the Insurance Department has conferred on the question you presented, and our conclusions may vary somewhat from my original statements.

It is the position of this Department that Mountain West may not require Farm Bureau Federation membership of its policyholders. Sections 40-3509 and 40-3512, R.C.M. 1947, prohibit unfair discrimination in the premium or rates charged for insurance, in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance between insureds or property having like insuring or risk characteristics, or between insureds because of race, color, creed, religion, or national origin. Establishing membership in a particular organization as a prerequisite to insurance would be considered a "condition of the insurance", and would constitute discrimination on a basis of other than risk characteristics.

Similary, Section 40-3520 provides that no form or plan of insurance covering any combination of persons shall be written to cover persons or risks in this State at any preferred rate or on any form other than as offered to persons not in such group and to the public generally.

now

(1) 40-3509 — (33-18-206 MCA)
(2) 40 3512 (33-18-210(2) MCA)
(3) 40-3520 (33-18-207(1) MCA.

THE INSURANCE AND INVESTMENT DEPARTMENTS WERE CREATED FOR THE PROTECTION OF THE CITIZENS OF MONTANA. USE THEM!

Exhibit II

Mr. James Morrow

It follows, then, that Mountain West may not cancel or fail to renew insurance on policyholders for termination of their Federation membership.

Restrictions as to membership in particular associations are comparable to geographical restrictions known as "red-lining" and will not be tolerated in this State. Such activity is subject to a Cease and Desist Order from the Insurance Commissioner under Section 40-3514. (7)

Mountain West may not attempt to promote or, in effect, require Federation membership by assessing and collecting membership dues as part of the insurance contract. This would constitute a violation of Section 40-3519, (5) R.C.M., prohibiting improper charges for insurance. The statute reads as follows:

> "(2) No person shall willfully collect as premium or charge for insurance any sum in excess of or less than the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the Commissioner . . . " (Emphasis supplied)

If the Company were including Federation membership dues in its policy provisions, and cancelling the insurance for failure to pay, this would appear to be collecting a "charge for insurance" in excess of the charge "applicable to such insurance".

The Company might also find itself entangled in difficulties with Section 40-2821, R.C.M. 1947, which requires authorized insurers to file a report and pay taxes on premium income, including "all other consideration for insurance... whether designated as a premium or otherwise ...."

Mountain West should be reminded that preferred terms of insurance may not be the foundation of an organization's existence. Even where special terms are allowed under our laws for group or franchise plans, the association must exist for purposes other than that of obtaining insurance.

If this office can be of further assistance to you, please feel free to contact us.

E. V. "SONNY" OMHOLT
STATE AUDITOR & EX OFFICIO
COMMISSIONER OF INSURANCE

Rita M. Theisen
Chief Counsel

RMT/mo

now

(4) 40-3514 33-18-1004
(5) 40-3519 33-18-212
(6) 40-2821 33-2-705

Exhibit II
page 2

LAW OFFICES

MORROW, SEDIVY & OLSON

PROFESSIONAL CORPORATION

P. O. BOX 1168

BOZEMAN, MONTANA 59715

JAMES H. MORROW
EDMUND P. SEDIVY, JR.
THOMAS A. OLSON

LOCATION
FIRST SECURITY BANK BUILDING
208 EAST MAIN
BOZEMAN, MONTANA 59715

TELEPHONE
(406) 586-2349

July 17, 1978

Montana Farm Bureau Federation
P. O. Box 1207
Bozeman, Montana 59715

Attn: Mr. Stanley E. Tryon
Executive Vice-President

RE: Dues coupled with insurance through Mountain West Farm Bureau Insurance Company
Our File No. 6-109

Dear Mr. Tryon:

You have asked two questions for legal opinion.

1. Can a Farm Bureau member insured under the Mountain West Farm Bureau Insurance Company plan be required to carry a Farm Bureau membership?

2. If so, can a policy of insurance be cancelled for failure to pay membership dues?

It would appear that the requirement of Farm Bureau membership, that is the payment of dues, could probably be required providing the insurance policy sets forth the requirement and the payment of the dues as a condition for the maintenance of the policy. Thus, the answer to question 1 would be yes, providing the policy issued specifies that requirement. However, then such additional premium would probably be subject to premium tax under the law of Montana.

Our Montana Section 40-3703, Revised Codes of Montana, as amended, provides, in part:

> "'Premium' is the consideration for insurance, by whatever name called. Any 'assessment,' or any 'membership,' 'policy,' 'survey,' 'inspection,' 'service' or similar fee or charge in consideration for an insurance contract is deemed part of the premium."

And under Section 40-2821 of the Montana Code is the provision for taxing of premiums, which provides, among other things:

> "(1) Each authorized insurer. . .shall file with the commissioner, on or before March 1 each year, a report . . .showing total direct premium income including policy, membership and other fees. . ."
>
> "(2) Coincident with the filing of the tax report referred to in subsection (1) above, each such insurer shall pay to the commissioner a tax upon such net premiums, the tax to be computed at the rate of two and three-quarters per cent (2-3/4%) of such premiums."

For answer to question 2, the answer would probably be no. Section 40-4407, Revised Codes of Montana, as amended in 1971, provides, in part:

> "(1) A notice of cancellation of a policy shall be effective only if it is based on one or more of the following reasons:
>
> "(a) Nonpayment of premiums;. . ."

None of the other portions for cancellation of the statute would apply to this particular situation. Thus, if you are to have considered the dues as a separate item from the premium, then failure to pay the dues would not be the grounds for cancellation. The only possible arrangement that could be had in this connection would be to have the dues considered as a premium for the purchase of the insurance and then, possibly, to have the insurance company refund the Montana Farm Bureau the amount of money, less tax and handling. This could possibly become an involved situation.

It is to be noted that I have not found any particular Montana cases or other cases exactly in point. I have contacted Mr. Omholt as the Montana Commissioner of Insurance, and have had consultation with a young attorney in his office who is making a research and will further advise.

Very truly yours,

MORROW, SEDIVY & OLSON, P.C.

J. H. Morrow

JHM:t
Enc. - extra copy of letter

P. S. - I am enclosing to you copies of letter received from Mr. Omholt in today's mail.

THE STATE OF WYOMING

ED HERSCHLER
GOVERNOR

Insurance Department

CHEYENNE, WYOMING 82002

2424 PIONEER AVE.
TELEPHONE (307) 777-7401
LICENSING DEPT (307) 777-7310

J. T. CAMDON
INSURANCE COMMISSIONER

RECEIVED
JAN 31 1983
STATE AUDITORS

25 January 1983

Honorable E. V. Omholt
Commissioner of Insurance
Montana Insurance Department
Mitchell Building
Helena, Montana 59601

Attention: Terrence J. Meagher

Dear Commissioner Omholt:

Through your Chief Examiner, Mr. Meagher, you have asked for the applicable provisions of Wyoming law which deal with the relationship between Mountain West Farm Bureau Mutual Insurance Company, a Wyoming domestic insurer, and the Wyoming Farm Bureau Federation. You specifically asked for our views in the context of W.S. 26-13-122. Also, you mentioned a letter from this department which apparently was mentioned at a legislative hearing in Montana. Let me dispose of this last matter first.

Prior to 1979, this department permitted MWFBM to enforce membership in the Wyoming Farm Bureau as a condition precedent to underwriting a risk initially, but absolutely refused to permit failure to renew such membership as a grounds for cancellation or non-renewal of the insurance policy. We believed then, as we do now, that an initial decision to underwrite a risk is, by and large, not subject to regulation. Once there is a contractual relationship, however, such decisions must be in compliance with W.S. 26-13-112(c) (copy enclosed).

As for W.S. 26-13-122 (the fictitious group statute), we do not really feel this applies, since the Farm Bureau Federation was formed for purposes other than that of securing insurance.

At the present time, by its choice and despite W.S. 26-13-108, Farm Bureau has not forced MWFBM to cancel or non-renew for failure to pay dues to the federation. If it began doing so, I would be concerned with the continued growth (and even eventual solvency) of the insurance company. This observation would be equally true were the Montana federation to make payment of dues a condition precedent to renewal. Were both states to take this

Exhibit III
page 1

approach, solvency would become my first concern. Right now, MWFBM offers a very good product at a competitive price--were the latter to disappear, the former would be but academic.

Copies of the statutes mentioned are attached. If there is anything further you need in this regard, please let me know.

Very truly yours,

J. T. Langdon
Insurance Commissioner

JTL:TEP:dsf
Enclosures

B.P.S. William Brown of the Montana Farm Bureau has asked for much the same information. We haven't answered his letter since we were writing you--but you may want to give him a copy of this letter.

Exhibit III
page 2

insurer's liabilities in equal prominence to the statement of capital and assets. (Laws 1967, ch. 136, § 248.)

26-13-107. Defamation prohibited

No person shall make, publish, disseminate, or circulate, directly or indirectly, or aid, abet or encourage the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false or maliciously critical of or derogatory to the financial condition of an insurer, or of an organization proposing to become an insurer, and which is circulated to injure any person engaged or proposing to engage in the business of insurance. (Laws 1967, ch. 136, § 249.)

26-13-108. Boycott, coercion and intimidation prohibited; exception

No person shall enter into any agreement to commit, or by any concerted action commit, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or any monopoly in, any business of insurance except that an insurer owned or controlled by an association or organization may refuse to renew a casualty or liability policy in the event of nonpayment of dues to the association or organization where payment of dues is a prerequisite to obtaining or continuing such insurance. (Laws 1967, ch. 136, § 250; 1979, ch. 147, § 1; eff. May 25, 1979.)

26-13-109. Unfair discrimination prohibited in regard to life insurance, annuities and disability insurance

(a) No person shall make or permit any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) No person shall make or permit any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of disability insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

upon purchase of the other, at the same price and upon the same terms and conditions as where purchased independently. (Laws 1967, ch. 136, § 253.)

26-13-112. Unfair discrimination and rebates, favors, etc., prohibited for property, casualty and surety insurers

(a) No property, casualty or surety insurer or any employee or representative thereof, and no broker, agent, or solicitor shall pay, allow, or give, or offer to pay, allow or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified or provided for in the policy, except to the extent provided for in an applicable filing with the commissioner as provided by law.

(b) No insured named in a policy, nor any employee of such insured shall knowingly receive or accept directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement.

(c) No such insurer shall make or permit any unfair discrimination between insureds or property having like insuring or risk characteristics, in the premium or rates charged for insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the insurance.

(d) Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents, brokers, or solicitors, or as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits. As used in this section the word "insurance" includes suretyship and the word "policy" includes bond. (Laws 1967, ch. 136, § 254.)

26-13-121. Illegal dealing in premiums; excess charges for insurance

(a) No person shall willfully collect any sum as premium or charge for insurance, which insurance is not then provided or is not in due course to be provided (subject to acceptance of the risk by the insurer) by an insurance policy issued by an insurer as authorized by this code.

(b) No person shall willfully collect as premium or charge for insurance any sum in excess of the premium or charge applicable to such insurance, and as specified in the policy, in accordance with the applicable classifications and rates as filed with and approved by the commissioner; or, in cases where classifications, premiums, or rates are not required by this code to be so filed and approved, such premiums and charges shall not be in excess of those specified in the policy and as fixed by the insurer. This provision shall not be deemed to prohibit the charging and collection, by surplus lines brokers licensed under chapter 11 of this code, of the amount of applicable state and federal taxes, examination fee, and nominal service charge to cover communication expenses, in addition to the premium required by the insurer. Nor shall it be deemed to prohibit the charging and collection, by a life insurer, of amounts actually to be expended for medical examination of an applicant for life insurance or for reinstatement of a life insurance policy.

(c) Each violation of this section shall be punishable under section 26.1-15 [§ 26-1-115] of this code (general penalty). (Laws 1967, c. 136, § 262.)

26-13-122. Fictitious groups

(a) No insurer, whether an authorized insurer or an unauthorized insurer, shall make available through any rating plan or form, property, casualty or surety insurance to any firm, corporation, or association of individuals, any preferred rate or premium based upon any fictitious grouping of such firm, corporation, or association.

(b) No form or plan of insurance covering any group or combination of persons or risks shall be written or delivered within or outside this state to cover persons or risks in this state at any preferred rate or on any form other than as offered to persons not in such group or combination and to the public generally, unless such form, plan of insurance, and the rates or premiums to be charged therefor have been submitted to and approved by the commissioner as being not unfairly discriminatory, and as not otherwise being in conflict with subsection (a) above or with any provision of chapter 14 of this code (rates and rating organizations) to the extent that such chapter 14 is, by its terms, applicable thereto.

(c) This section does not apply to life insurance, disability insurance, or annuity contracts. (Laws 1967, ch. 136, § 263.)

26-13-123. Prohibited relations with mortuaries, etc.

(a) No life insurer shall own, manage, supervise, operate, or maintain any mortuary, funeral, or undertaking establishment, or permit its officers, employees, or representatives to own, operate, maintain or be employed in any such business.

(b) No life insurer shall contract or agree with any funeral director, mortuary, or undertaker to the effect that such funeral director, undertaker, or mortuary shall conduct the funeral of any person insured by such insurer.

(c) Each violation of this section shall constitute a misdemeanor punishable by a fine of not more than one thousand dollars ($1,000.00), or by imprisonment for not more than six (6) months, or both such fine and imprisonment in the discretion of the court. (Laws 1967, ch. 136, § 264.)

26-13-124. False applications, claims and proofs of loss

No solicitor, agent, examining physician, applicant, or other person, shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for insurance; or for the purpose of obtaining any

VISITOR'S REGISTER

HOUSE Bus + Ond. COMMITTEE

BILL SB 103 DATE 3-1

SPONSOR

NAME	RESIDENCE	REPRESENTING	SUP-PORT	OP-POSE
Pat Underwood	Bozeman	Mont. Farm Bureau	✓	
Bill Brown	Bozeman	Mt Farm Bureau	✓	
Mack Zuzin	Big Sandy	MT Farm Bureau	✓	
Chris Johansen	Gt. Falls	Mt Farmers Union	✓	
Jayne Mitchell	Helena	Mont Ins Dept		✓
Terry Medley	Helena	Mont. Ins. Dept.		X
Lorna Frazier	Helena	Mont Ins Dept		X
Eileen Pauley	Helena	Mt Assn. L. Unit		[redacted]
Gordon Brue	"	Mont Ins Dept		X
Anna LeEuben	"	"		X
Bob Stephens	Butte	MGA	✓	
Don Ochsner		Lobbyist	✓	

IF YOU CARE TO WRITE COMMENTS, ASK SECRETARY FOR LONGER FORM.

WHEN TESTIFYING PLEASE LEAVE PREPARED STATEMENT WITH SECRETARY.

FORM CS-33